

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
vs.)	No. 07 CV 6321
)	Judge Wayne R. Andersen
ANGEL FIGUEROA)	

GOVERNMENT'S AGREED MOTION FOR ENTRY OF AGREED ORDER

The UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully requests the entry of an agreed order in this matter. In support of this motion, the government states as follows:

1. On April 30, 2002, Angel Figueroa was arrested and charged by complaint with conspiring to distribute heroin. At his initial appearance later that day, Figueroa was detained pending trial.

2. On May 24, 2002, the government filed a Motion for Extension of Time in Which To Return Indictment ("Motion"). On May 29, 2002, Acting Chief Judge Charles P. Kocoras granted the Motion, extending the time to file an indictment to July 30, 2002. On July 18, 2002, Figueroa was released on bond.

3. On July 26, 2002, the government filed a Second Motion for Extension of Time in Which To Return Indictment ("Second Motion"). On July 27, 2002, Acting Chief Judge Ruben Castillo granted the Second Motion, extending the time to file an indictment to September 30, 2002.

4. On September 24, 2002, Figueroa was charged by indictment with one count of conspiring to distribute heroin, one count of possessing heroin with intent to distribute and one count of possessing firearms in furtherance of a drug trafficking crime. On March 23, 2004, Figueroa

was convicted of conspiring to distribute heroin.¹ On July 7, 2006, Figueroa was sentenced to 240 months' imprisonment and five years' supervised release.

5. On direct appeal, Figueroa argued for the first time that his indictment should have been dismissed under the Speedy Trial Act. *United States v. Figueroa*, 228 Fed. Appx. 661, 612 (7th Cir. 2007). The Seventh Circuit held that Figueroa waived his rights under the Speedy Trial Act and concluded that Figueroa's contention that he could not have acted before trial because he was not aware of the purported statutory violations was frivolous. *Id.* The Seventh Circuit found against Figueroa in all respects and affirmed the district court's judgment on April 19, 2007. *Id.* at 613.

6. On November 7, 2007, Figueroa filed a motion for relief under 28 U.S.C. § 2255, raising the same claims he made on direct appeal. Figueroa also contends that his counsel was ineffective for failing to move to dismiss the indictment under the Speedy Trial Act. Figueroa has requested that the government move to disclose the Motion—as well as Acting Chief Judge Kocoras' order granting the Motion—prior to his filing of a reply brief.

7. On April 29, 2008, the undersigned AUSA filed a Motion for Limited Disclosure of the Motion, which this Court granted on May 8, 2008.

8. The Motion for Limited Disclosure did not request this Court to authorize disclosure of Acting Chief Judge Kocoras' order granting the Motion for Extension of Time in Which To Return Indictment. Since the filing and entry of the Order, Figueroa has requested that the government also seek disclosure of Acting Chief Judge Kocoras' order.

¹ The jury could not reach a verdict on the possession with intent to distribute charge and found Figueroa not guilty on the firearms charge.

WHEREFORE, the United States respectfully moves that the Court authorize disclosure of the Acting Chief Judge Kocoras' order granting the Motion for Extension of Time in Which To Return Indictment, in accordance with Federal Rule of Criminal Procedure 6(e)(2)(E)(i), with appropriate redaction to ensure non-disclosure of sensitive information. At the request of Figueroa's counsel, the United States also asks the Court to permit Figueroa to file his reply to the government's brief within fifteen days after receipt of the order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following documents:

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was served on May 28, 2008, in accordance with FED. R. CIV. P. 5, LR5.5, and the General Order on Electronic Case Filing pursuant to the district court's Electronic Case Filing (ECF) system as to ECF filers.

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